The
Principles
of

HUMAN RIGHTS LEGISLATION

A WHITE PAPER

JULY, 1986

Yukon
Justice

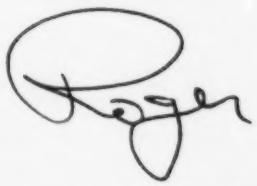
86-05028/

FOREWORD

Since assuming office in May, 1985, our Government has given a high priority to the issue of Human Rights. We introduced Bill 58, the Yukon Human Rights Act, on October 24, 1985. Subsequently, Yukoners have made it clear that they want more information on these complex issues, and they want to know the reasons behind the specific laws proposed by the Government.

Human rights legislation is a protection and enhancement of personal freedom. The purpose of human rights protection is to give individuals the freedom to rise as high as their ability will take them. I stress ability here, because ability remains the main criterion. Human rights protections do not mean that employers will be forced to hire all females, or Francophones or visible minorities. They do not mean that employers will be forced to hire unqualified individuals. They do not mean quotas. They can, however, ensure that everyone in our society has an equal opportunity at success.

I am interested in your reactions to this paper. I am available to meet with individuals or groups who wish to provide me with their input, or who seek further clarification concerning the proposed Human Rights Legislation.



The Honourable R.S. Kimmerly
Minister of Justice
Government of Yukon

July, 1986

TABLE OF CONTENTS

	Page
Introduction	4
Human Rights in Canada	
Human Rights in the Yukon	
I. Fundamental Freedoms	5
Right to Freedom of Conscience, Opinion and Belief	5
Right to Free Expression	6
Right to Free Assembly and Association	7
II. Prohibited Discrimination	9
Right to Equal Treatment	9
Definition of Discrimination and Grounds of Discrimination	9
Age	11
Physical or Mental Disability	11
Criminal Record or Criminal Charges	12
Sexual Orientation	12
Political Belief	13
Family Status	13
Intentional and Unintentional Discrimination	14
Mistaken Prejudice and Indirect Discrimination	15
Making Accommodation or Allowances for People who might otherwise be Denied an Opportunity	15
Defences and Protection for People Accused of Discrimination	16
Bona Fide and Reasonable Cause	16
The "Undue Hardship" Defence	17
Exceptions for Special Programmes	18
Exceptions in Private Homes	18

III. Application 19

Discrimination in Laws 19
Discrimination in Service, Accommodation, Facility, etc. 19
Discrimination in Employment 19
Equal Pay for Work of Equal Value 19
Employment Agencies 20
Trade Unions, and Associations of Workers, Employers, Professionals or Business People 21
Restricting of Questions asked during Job Applications and Hiring Interviews 22
Innocent Parties should be protected 22
Discrimination in Contracts 23
Rental of Premises 23
Purchase of Property 23
Notices, Signs, Symbols 24
Harassment 24

"All human beings are born free and equal in dignity and rights. They are endowed with both reason and conscience and should act towards one another in a spirit of brotherhood."

Universal Declaration of Human Rights

INTRODUCTION

In February, 1985, the Government of Canada formed a parliamentary Committee to examine and report on the impact of section 15 of the *Charter of Rights and Freedoms* on federal laws. The committee, chaired by Patrick Boyer (M.P., P.C.) held hearings across Canada, and presented its report Equality For All on October 25, 1985.

The federal government responded to them in their Report *Toward Equality*, which was tabled in Parliament on March 4, 1986, by the Honourable John Crosbie, Minister of Justice.

Since the Committee has so recently heard the views of Canadians on equality issues, it is important to consider its recommendations as they relate to human rights legislation in the Yukon. Throughout this paper reference may be made to these recommendations and the response by the Government of Canada.

Human Rights in Canada

The first thing that needs to be said about the protection of human rights in Canada is that the *Canadian Charter of Rights and Freedoms* made a difference. Section 15, the equality rights section of the Charter took effect on April 17, 1985.

Together with the rest of the Charter, section 15 opens the doors of the courts to anyone who believes that discrimination is taking place in the law. All federal, provincial and territorial governments are bound by the provisions in the Charter when passing, repealing, or amending laws and in the administration of government.

The Charter is a shield against discrimination by governments, but it does not protect Canadians against discrimination by each other.

That is why we need human rights laws and the agencies that apply them. Human rights agencies are responsible for encouraging good human rights practices and for dealing with complaints that do not arise directly out of the law or government policy.

Human Rights in the Yukon

The Fair Practices Act, which functions as an anti-discrimination law in the Yukon, was enacted in 1963. Since then there have been significant developments in human rights laws at the international, federal and provincial level.

The Government of Yukon is obliged to update our laws to comply with the Charter of Rights and Freedoms. And human rights legislation in the Yukon is required if we are to be protected from acts of discrimination by individuals, companies or groups.

Therefore, it is the purpose of this White Paper to outline and explain the government's proposed policy on human rights.

I. FUNDAMENTAL FREEDOMS

It is proposed to have a "Bill of Rights" listing certain freedoms fundamental to a free and democratic society. These are: freedom of conscience, freedom of expression, and freedom of assembly and association.

"In a democratic and pluralistic society, people have a right to their opinions, even though those opinions might be absurd and reprehensible. But there is a broad consensus in Canada, which has been expressed in the Charter of Rights and Freedoms, in a human rights code and acts at the federal level and in every province and territory, that a person's right to hold a bigoted opinion does not justify the denial of opportunity to others."

Gordon Fairweather, Chief Commissioner, Canadian Human Rights Commission, 1985.

Right to Freedom of Conscience, Opinion and Belief

What is it?

Every person or group of persons will be guaranteed the right of conscience, opinion and belief. This means that no one may be treated differently by the government, the police or otherwise, simply because of what that person believes.

No right or freedom is absolute, however, and this guarantee is subject to reasonably justifiable limits. For example, no one may justify committing a serious criminal offence by claiming that the act was required by his or her conscience or opinion.

Why have it?

A basis of our political and community life is that individuals should be free to develop and follow their personal beliefs and opinions, unless their actions infringe upon the rights and freedoms of others.

How does it apply?

This provision will prevent a government licencing agency (for example, liquor, hunting, motor vehicles) from denying someone a licence that he or she is otherwise qualified for simply because of that individual's personal views. No student could be expelled from school because he or she refused to sing the National Anthem or recite the Lord's Prayer because of a sincerely held belief that such exercises are wrong. No one may be fired, or refused rental of an apartment solely because of their beliefs.

Right to Free Expression

What is it?

Every person and organization has the right to free expression. The guarantee of free expression covers all forms of communication, including the media, and may also extend to "symbolic" speech, such as wearing a button which expresses a political or other message.

Like all rights and freedoms, freedom of expression is not absolute. The restrictions on it now contained in our law include obscenity, defamation and hate literature rules. These limits are justified because these forms of expression damage the well-being of others in the community.

Why have it?

Freedom of expression is generally accepted as one of the cornerstones of a democratic society. Vigorous and unrestrained public debate on all sorts of issues is essential.

Freedom of the media is a vital component in this process. A free media helps to ensure that the public is kept informed on current political, economic and social issues, and editorials help mould public opinion.

"Where, after all, do universal human rights begin? In small places, closè to the home...Yet they are the world of the individual person: the neighbourhood he lives in; the school or college he attends; the fa tory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere."

- Eleanor Roosevelt
The Great Question

How does it apply?

Freedom of expression would apply to an individual who wished to participate in a political debate, or to a private group that wanted to make a statement on an issue which concerned it.

With this fundamental freedom, a private organization (such as a company or a union) could not forbid its members from speaking out on public issues, or limit its members' right to participate in group meetings, debates or elections.

Right to Free Assembly and Association

What is it?

The legislation would confirm that every individual and group has the right to assemble peaceably with others, and to form associations with others. These are two separate and distinct rights.

Freedom of assembly is concerned with the expression of opinion. People may gather together to hear someone speak, or they may join with others in a public demonstration to express their ideas by means of action.

Photo: Whitehorse Star

Freedom of association concerns the right to join others in pursuit of lawful objects.

These freedoms are subject to legal restrictions. For example, the time and place of public assemblies or demonstrations may be regulated by municipal authorities.

Why have it?

". . . Justice considers that persons who are equal should have assigned to them equal things."
—Aristotle

One can form an opinion, and have the right to express it, but this will be meaningless unless others can gather to hear the message, or unless one is free to join an association of like-minded people. Freedom of assembly guarantees that ordinary members of the general public will have a voice in politics and social issues, which can be expressed in a peaceful demonstration.

How will it apply?

Freedom of assembly and association would protect people who might fear reprisal from being involved in organizations or demonstrations. For example, an employer could not threaten to fire, or otherwise prevent an employee from joining an organization or a demonstration which was protesting wrong doing by the company.

II. PROHIBITED DISCRIMINATION

Right to Equal Treatment

Each of us wants to be treated with respect, and not to be denied an opportunity or a benefit for an irrelevant reason, such as skin colour or who our ancestors were. Equal treatment without discrimination simply means that when you are trying to rent a trailer, apply for a job, buy gasoline, or to engage in other ordinary activities, you will receive fair and equal consideration based on your own personality or capacity and not based on someone else's prejudices.

Definition of Discrimination and Grounds of Discrimination

Discrimination arises whenever anyone or a group of people is treated differently because of characteristics which have nothing to do with personal merits.

"Equal opportunity for all Canadians, whether we are talking about economics or social justice, is the only objective we can accept in a country such as ours with its tradition of respect, tolerance and fair play."

Gordon Fairweather, Chief Commissioner, Canadian Human Rights Commission, 1985.

Grounds of Discrimination

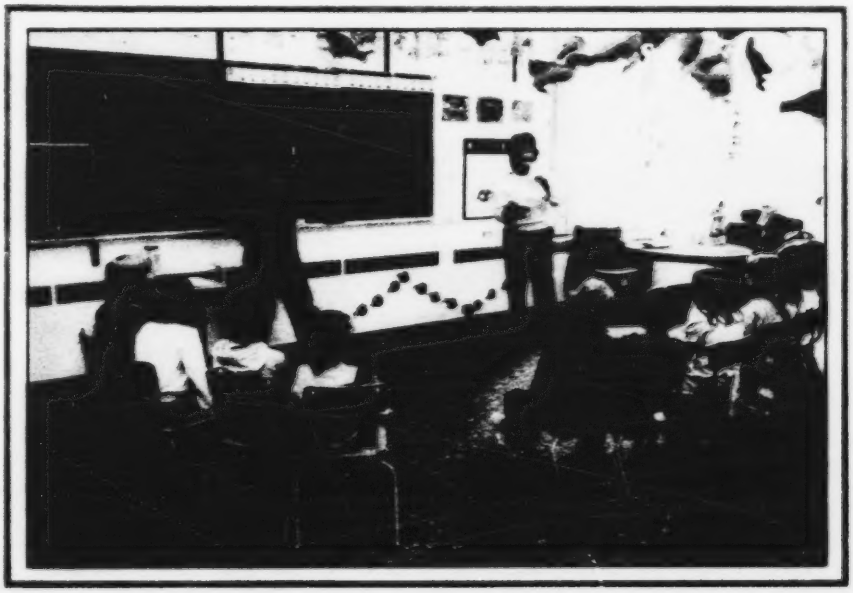
The Yukon *Fair Practices Act* of 1963 currently prohibits discrimination on the following grounds:

Race	**Religion**
Religious Creed	**Colour**
Ancestry	**Sex**
Marital Status	**Ethnic or National Origin**

The Government proposes to add the following grounds:

Age
Physical or Mental Disability
Criminal Record (in employment only)
Sexual Orientation
Political Belief
Family Status

The Government is of the belief that in most circumstances these grounds are irrelevant to someone's personal merits. Common sense suggests that there must be exceptions to the rule, and these will be discussed later. (For example, although "age" is a proposed prohibited ground, a young child should not be permitted to obtain a licence to drive a car.)



"...any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere..."

United Nations International Convention
Signed by Canada: 1966
Ratified: 1970

Age

The Yukon is the only jurisdiction in Canada which does not provide protection from discrimination because of age. The issue receiving considerable attention with respect to age concerns the question of mandatory retirement at age 65. However, the federal government has recently announced that it will end mandatory retirement for federal public servants and others under federal jurisdiction.

"Most people recognize that disability is relative. We all have our strengths and weaknesses. Most of us are disabled compared with Karen Kain, Wayne Gretsky, Albert Einstein. Indeed, most of us are disabled compared with Terry Fox and Steve Fonyo. I look forward to the time, not many years hence, when prejudice based on disability will be as unthinkable to most Canadians as religious prejudice has become."

Gordon Fairweather, Chief Commissioner, Canadian Human Rights Commission, May, 1985.

Physical or Mental Disability

The inclusion of disability among the prohibited grounds of discrimination in section 15 of the Charter aims at removing the effects of prejudice that disabled Canadians now encounter. Equal benefit of the law also requires that disabled persons have reasonable access to services and facilities offered or regulated by federal, provincial and territorial governments.

Criminal Record or Criminal Charges

Employment discrimination will not be allowed against people with a criminal record or facing a criminal charge if the record or charge is not related to the particular job. For example, if a hockey player has been convicted of assault because of fighting an opponent in a hockey game, that would be less relevant to a job handling cash than a conviction for fraud or theft would be.

This will direct employers to consider the nature of the conviction and the nature of the job, and make a practical decision as to whether the conviction is related to the performance of that particular job.

The basis of this prescribed ground is that it is in the best interest of society to reintegrate the person who has been convicted of a crime into a productive community life. It is also based on our concept of justice; once a person has completed a sentence, he or she should not be punished again for the same crime.

Sexual Orientation

"Citizens whose sexual orientation is homosexual ought not to be excluded from the protections afforded to all other citizens through either neglect or the failure of governments to develop the legislation that would provide that protection."

- Working Unit on Social Issues and Justice, Division of Mission UNITED CHURCH OF CANADA
- Brief submitted to the Parliamentary Committee on Equality Rights, October, 1985.

In the Canadian Government's response to the Equality for All report, the government recognizes that the issue of sexual orientation addresses some of the most difficult moral and religious concerns of Canadians. However,

> "the (Federal) Government believes that one's sexual orientation is irrelevant to whether one can perform a job or use a service or facility. The (Federal) Department of Justice is of the view that the courts will find that sexual orientation is encompassed by the guarantees in section 15 of the Char-

"We believe as Christians that homosexual persons as children of God have a full and equal claim, with all other persons, upon the love, acceptance, concern and pastoral care of the church. The gospel of Jesus Christ compels Christians to guard against all forms of human injustice and to affirm that all persons are brothers and sisters for whom Christ died. We affirm that homosexual persons are entitled to equal protection under the law with all other Canadian citizens."

House of Bishops
Anglican Church of Canada
February, 1979

ter. The Government will take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination in relation to all areas of federal jurisdiction."

- *Toward Equality*. The Government Response to the Report of the Parliamentary Committee on Equality Rights - March, 1986

It should be noted that the phrase used is *sexual orientation* and not *sexual activity*. The distinction is an important one.

The Government of Yukon does not intend to *advocate* any sexual activity, be it homosexual or heterosexual. We also have no intention of providing greater protection to homosexuals than to heterosexuals.

However, the Government of Yukon believes, as does the Government of Canada, that one's sexual orientation is irrelevant to whether one can perform a job, or use a service or facility.

Political Belief

In 1969, Newfoundland became the first province to include "political opinion" as a prohibited ground of discrimination under its Human Rights Act. British Columbia, Manitoba, Prince Edward Island and Quebec have also included "political belief/conviction" as a prohibited ground of discrimination.

Family Status

All Canadian jurisdictions prohibit discrimination because of "marital status" or "family status" or "civil status". Currently, our *Fair Practices Act* uses the term "marital status", and does not define it.

The inclusion of family status would prohibit discrimination because of living common-law, being a single parent, being single, having pre-school children, and the like.

"We are committed to equality and social justice. This government has given much consideration to the recommendations and concerns of Canadians. That is why we are taking concrete steps to protect the rights of people unjustly and unfairly discriminated against in our society."

Honourable John Crosbie. 1986.

Intentional and Unintentional Discrimination

Discrimination does not need to be intentional, although this will sometimes be the case. An example of intentional discrimination arises when a landlord tells a black individual that an apartment has already been rented, and then offers the vacant premises to a white person who applies later.

The term "systemic" or "unintentional" discrimination describes discrimination which occurs where employment practices or other apparently routine situations were not intended to discriminate, but do. For example outdated weight and height restrictions on many police forces eliminated most women and many minorities from applying.

Naturally, there are many situations in which an employer must require certain minimum qualifications for a job. A complaint of discrimination against an employer will clearly have no grounds if the employer can show that the job qualifications are reasonable and necessary, even though they have the effect of excluding certain groups.

Mistaken Prejudice and Indirect Discrimination

An example of mistaken prejudice is when a Canadian citizen has an American accent, and is assumed to be American. If this person is discriminated against because of the "mistaken prejudice" the complaint would still be covered by the legislation.

Indirect discrimination often occurs because of someone's "association" or spending time with a particular group. In Northern Ireland, for example, a Protestant who is friendly with Roman Catholics might be discriminated against by other Protestants; that sort of discrimination will be forbidden, since discrimination on the basis of religion is prohibited.

Making Accommodation or Allowances for People who might otherwise be Denied an Opportunity

A building that is inaccessible to the disabled might actually prevent an otherwise qualified person from being able to obtain a job. Although the government considers the concept of equal opportunity important, it has no wish to make onerous demands on small businesses, through expense or inconvenience. Therefore few business establishments will be affected by this legislation.

Wherever and whenever possible and reasonable, employers may be required to make partial accommodation to the special needs of an individual. For example, suppose an employee of a store became a practising member of a religious denomination for which Saturday, rather than Sunday, is the day of worship. It might be reasonable, where the employer is able to accommodate it, to allow that individual to work alternate hours or duties, rather than requiring that the employee work Saturday.

Defences and Protection for People Accused of Discrimination

None of the proposed rights are absolute. Several answers are availale to a person claimed to be discriminating, and these will be expressly set out in the legislation. They are as follows:

Bona Fide and Reasonable Cause

There are many situations in which individuals or groups are treated less favourably, yet in which there is no unlawful discrimination. This is because the different treatment occurs in good faith and for good reasons.

For example, when job qualifications are demanded, it is usually done "*bona fide*" (in good faith) and for a "reasonable cause".

The Supreme Court of Canada has said that to be *bona fide* an employment requirement must be imposed in good faith, and in the *sincere belief* that it is required "for the adequate performance of the work".

The Court's view was that to be *reasonable*, an employment requirement *from an objective point of view*, must be related to the performance of the employment concerned. It must "ensure the efficient and economical performance of the job without endangering the employee, fellow employees and the general public".

A reasonable and *bona fide* cause could exist for denial of a government service. An example is denial of a driver's licence to someone who is under the minimum age or to someone who is blind.

The "Undue Hardship" Defence

As mentioned earlier, compromises or adjustments may be expected so as to avoid causing discrimination against a group or individual with special needs. However, in some instances, it might be unfair to ask that an extra effort be made to accommodate the needs of a minority. This might happen if the required changes were very large compared to the size of the business or government operation concerned, and if a very small number of people would benefit. That is why the proposed legislation will make it possible to have a complaint dismissed if accommodation to special needs would cause "undue hardship".

A minor adjustment (e.g. a telephone with a hearing aid) may enable someone to obtain a job for which he or she is qualified, and would not be considered an "undue hardship", especially if the employer is large. On the other hand, making washrooms accessible to wheelchairs may result in "undue hardship" for some small businesses.

Mere inconvenience or a minimal expense is not enough to justify a claim of "undue hardship". The legislation will say that to decide whether the cost involved amounts to "undue hardship" we must look at not only the dollar cost but also the following: safety;

"And as often happens in our society, although the law ideally should follow social change, social change frequently follows enlightened law..."

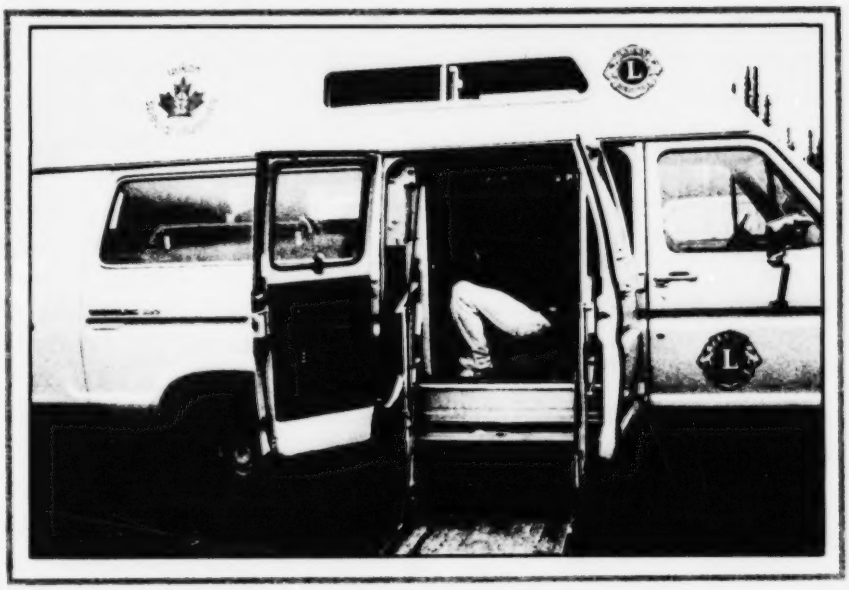
Equality Rights and the Canadian Charter of Rights and Freedoms

Bayefsky & Eberts, ed.

"Equality and social justice require that individuals be given a fair chance to make their own way in society and that, when opportunities are not fairly distributed, positive action is taken to ensure that they are."

Hon. John Crosbie
"Toward Equality"

the effect on other people, including any co-workers; the degree of inconvenience or disruption to the business or public service involved; the effect on contracts with other people, including collective agreements with workers and the general effect on business.



Exception for Special Programmes

Yukon human rights legislation will encourage and allow for positive efforts and actions which would reduce barriers faced by certain identifiable groups (such as women or the disabled). These positive programmes offer "reasonable accommodation" or temporary extra assistance (e.g. affirmative action) to disadvantaged individuals or groups, to give them an opportunity to compete on a more equal basis. The legislation will ensure that such special treatment is not labelled "discrimination", since it actually involves repairing parts of the damage caused by past or continuing discrimination.

Exceptions in Private Home

Because of the intimate nature of private homes, this bill will not apply to activites in a private home.

III. APPLICATION

Discrimination in Laws

Human rights legislation will apply to the actions of the various levels of government in the Yukon (except the Government of Canada), and to the laws which they pass. The legislation will cover all types of written laws, including statutes, regulations and municipal bylaws.

Discrimination in Service, Accommodation, Facility, etc.

Both government services and private businesses will not be able to treat customers or clients unfairly just because of differences in ancestry, gender or the other grounds mentioned.

The prohibition of discrimination in providing services or facilities would also normally apply to use of school property, and to services provided by government offices such as social assistance.

"We have the occasion...to build for our children and the children of our children a better Canada — a Canada which will recognize the diversity and equality which should be in our society...a Canada which will be an example to the world."

The Hon. Jean Chretien
House of Commons
February 17, 1981

Discrimination in Employment

Employment is a key area in which the right to equality and equal benefit of the law must be achieved.

There has been a concern expressed that employers will be forced to hire women and members of minorities, regardless of qualifications. That is incorrect. Human rights legislation obliges employers to give everyone a fair chance. They cannot refuse to hire someone because of colour, sex, disability, and so on. But they can turn away everyone who cannot do the essential tasks of the job.

They can refuse to hire anyone if they can show there is another candidate with better qualifications.

Photo: Esso Resources Canada Limited

Human rights legislation is a defender of the merit system. It requires that an individual be assessed on his or her individual merit -- not on the colour of their skin, or their sex.

Except where there exists "*bona fide* and reasonable" causes no one should refuse to hire a qualified person or treat that person unfairly when it comes to wages, promotion or any other aspect of work if the unfair treatment involves discrimination on one of the grounds prohibited by the proposed legislation. This applies to both applying and hiring for employment as well as during actual employment, and includes part-time and full-time, seasonal, casual, paid and unpaid work.

"While the courts are guardians of the constitution and of individual's rights under it, it is the legislature's responsibility to enact legislation that embodies appropriate safeguards to comply with the constitution's requirements."

Mr. Justice Brian Dickson now Chief Justice of Canada

Equal Pay for Work of Equal Value

The government is implementing equal pay for work of equal value in the public sector. It is proposed that businesses employing fifty or more employees be included within five years of the passage of Human Rights Legislation.

In the federal Speech from the Throne in November, 1984, Prime Minister Brian Mulroney acknowledged his government's support for equal pay for work of equal value:

"Economic equality is the vehicle through which women will come to full partnership and participation with men in our society. Parliament has committed the federal jurisdiction to equal pay for work of equal value. My government agrees that this concept is one of the keys to achievement of economic equality for women."

"We cannot speak of a just, decent, human society if we do not mean a society with a basis of equal treatment and equal opportunity for all....To women, whose burden has been the injury of inequality, we owe nothing less."

Hon. William Wrye
Minister of Labour
Ontario, 1986

What does Equal Value Pay mean?

It requires that females and males who have different jobs within the same establishment and for the same employer, receive equal wages if these jobs are of equal value to the employer.

Who determines value or worth?

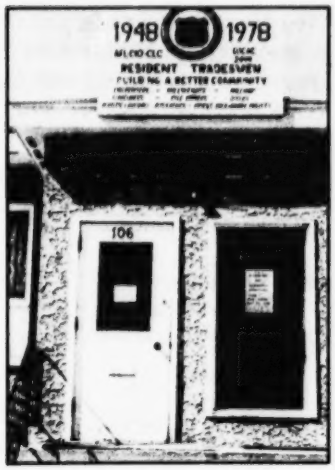
The factors generally used to assess value are skill, effort and responsibility required to perform the job and the conditions under which the work is done. Value is determined through the sum total of these factors.

Provision is generally made in equal value legislation to sanction a difference in pay between employees doing work of the same value if the difference is based on a reasonable factor. These may include seniority, rehabilitation, training, phased-in reduction, labour shortage merit pay or between different bargaining units in the same establishment.

Employment Agencies

The legislation will make it clear that discrimination by a government or private employment office or agency is forbidden. This will cover all aspects of employment, including recruitment, hiring, testing, training, and referral for any of these things.

The same protection will be given to employment agencies as to employers, if discrimination is based on *bona fide* and reasonable requirements or qualification for the work.



Trade Unions, and Associations of Workers, Employers, Professionals or Business People

The legislation will require that trade unions and other types of associations which can control some aspects of employment follow the same anti-discrimination ru es as required by employers.

Likewise, a union or other occupational organization will receive the same protection against a complaint of discrimination if so-called discrimination is actually necessary because of a *bona fide* and reasonable employment requirement.

Restricting of Questions asked during Job Applications and Hiring Interviews

Many employment application forms and interviewers ask people to provide information that really has nothing to do with the position being filled. Unless the employer sets up a special programme to help a disadvantaged group gain an equal opportunity at obtaining employment, there is no job-related reason, for example, to know the ethnic background or religion or medical history of an applicant. The legislation will state quite clearly, however, that "*bona fide and reasonable*" disclosure of information may be required for some jobs.

"Section 15 has opened up new horizons for individual rights, but the scope of these horizons will only be determined as courts decide individual cases and governments create new social policy."

Hon. John Crosbie
Minister of Justice and
Attorney General of Canada
"Toward Equality"

Innocent Parties should be protected

The legislation will ensure that when the harmful effects of discrimination are corrected because of a complaint made under the Act, innocent people who did not discriminate do not have to suffer a loss.

For example, the person who holds the position formerly occupied by the person discriminated against could not be removed since they accepted the employment *in good faith*. The legislation will require that another solution be found. This could amount to a cash settlement for the victim, or an order that the next suitable job opening be offered to the victim, or a combination of these and other remedies.

Discrimination in Contracts

No one will be able to refuse to enter into a contract, or impose different terms in a contract because of someone's race, colour, age, etc., unless there is a valid reason for this conduct. An insurance company cannot deny housing insurance to a black person because of stereotypes. Car insurance premiums cannot be higher for single parents, or retired people, unless there are demonstrated grounds for this.

This will apply to oral or written contracts, and will apply whether or not a contract is actually formed.

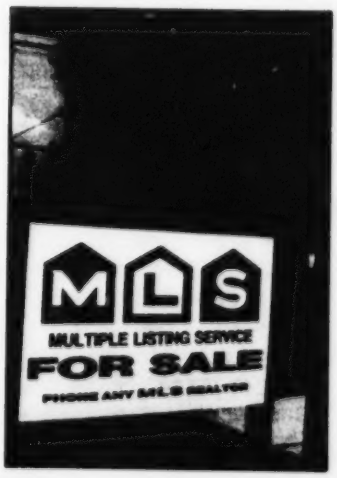
"Every individual should have the equal opportunity to make for himself or herself the life that he or she is able and wishes to have consistent with his or her duties and obligations as a member of society without being hindered in or prevented from doing so by discriminatory practices."

Canadian *Human Rights Act* - Section 2(a)

Rental of Premises

No one will be denied an opportunity to rent or lease personal or business premises, because of their race, sex, age, etc., unless there is a bona fide and justifiable reason. As well, no one may be treated differently in the terms or conditions of the rental or lease contract because of a prohibited ground of discrimination. For example, a landlord cannot refuse to rent an apartment to a single mother, or charge a young man a higher rent simply because the landlord fears that a single mother, or young man, would cause trouble. Unless there is a good reason for this treatment (e.g. the person cannot provide character references, or cannot show that he or she will be able to pay the rent) it will violate the legislation.

This would not apply to the choice of a boarder or tenant who shares the owner's house, unless the living areas are separate and capable of being locked.



Purchase of Property

No one will be denied an opportunity to purchase any business premise, home or other property because of one of the prohibited grounds of discrimination. As well, no one may be charged a higher fee, or forced to pay in advance on such grounds.

For example, it will be contrary to the legislation to refuse to sell a home because of the buyer's colour or religion. Unless there is a valid reason for this refusal which has nothing to do with the person's colour or religion (i.e. the buyer cannot obtain a mortgage) this treatment will violate the legislation.

Notices, Signs, Symbols

It is proposed that the display or publication of a notice, sign or symbol which is discriminatory, or urges others to discriminate, or creates a risk that others will be exposed to violence or hatred be prohibited. This will not, however, prevent people from discussing, in good faith, their opinions about a group or individual. It will prohibit the posting of discriminatory signs or use of application forms that indicate the group or association will discriminate.

This protection will extend to individuals and groups who may be exposed to violence or hatred by such notices or signs. For example, a sign which told people to take action to prevent East Indians from moving into the community would contravene the legislation if it created an unreasonable risk of violence or hatred against these people. The legislation will declare that the creation of the risk of harm is wrong, regardless of whether anyone actually acts on it.

Harassment

"The Canadian Human Rights Commission has always considered harassment on any of the prohibited grounds as a kind of discrimination. Sexual harassment, in particular, has been a matter of concern, and research done for the Commission has shown that 1.5 million Canadians, both men and women, believe they have been sexually harassed."

Canadian Human Rights Commission

Harassment of a person because of a prohibited ground of discrimination, e.g. that person's age, sex, race or religion, will be illegal. This will apply to all of the activities dealt with in the legislation.

Harassment includes repeated comments or behaviour which is known to be unwelcome, such as racial slurs. It also includes sexual advances or comments which are unwelcome, and any threat of reprisal for rejecting such advances.

This section will also apply to the person actually doing the harassment, and it will also require those persons responsible for the service or business to prevent the harassment. For example, an employer is liable if he or she actually harasses an employee, and also if he or she permits other employees to harass an employee.

FOR MORE INFORMATION PLEASE CONTACT:

The Human Rights Information Office
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6
667-5491
1-667-5955 toll free for long distance

COMMENTS OR SUBMISSIONS MAY BE MADE TO:

Roger S. Kimmerly
Minister of Justice
Government of Yukon
P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6
667-5877
1-667-5955 toll free for long distance

DEADLINE FOR SUBMISSIONS IS SEPTEMBER 30, 1986